

Remarks

Claims 1-4, 6-12, 15-21 and 23-26 are presented for prosecution and stand rejected under 35 USC 103(a) as allegedly being unpatentable over Bakalash, US 6,385,604 or admitted prior art, in view of Brickell, US 6,678,676.

Applicant does not acquiesce in the correctness of the rejections and reserves the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicant reserves the right to pursue the full scope of the subject matter of the claims in a subsequent patent application that claims priority to the instant application.

Applicant respectfully traverses the 35 USC 103(a) rejections and submits that all claims are allowable of the cited art. "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." MPEP 706.02(j).

A. The prior art fails to teach or suggest using a combination of **both** time saved and summary table size

With regard to claim 1 (and similarly claims 10 and 19), Applicant respectfully submits that the prior art fails to teach or suggest all of the claim limitations. Claim 1

recites, *inter alia*, “wherein the performance measure is a combination of **both** time saved and summary table size.”

In the Office Action, it is alleged that “using one or the other is a combination” using the broadest reasonable interpretation. Applicant respectfully traverses. Even if, *argendo*, using “one or the other” was construed to teach using two different combinations of two single elements, it does not, under any interpretation, teach a single combination of two elements, as currently claimed. However, in an effort to expedite prosecution, Applicant has amended the claim to recite “a combination of **both** time saved and summary table size.” Clearly, using “one or the other” could not possibly be interpreted as using a combination of *both* time saved and summary table size.

The Office Action further refers to column 8, lines 35-56. However, a careful analysis of the algorithm described therein indicates that the algorithm calculates time saved using summary table size (see lines 53-54). Accordingly, this passage fails to teach the claimed invention – i.e., wherein the performance measure is a combination of both time saved and summary table size.

B. The prior art fails to teach or suggest using different subsets of characteristics to generate performance data

Claim 1 (and similarly claims 10 and 19), recites, *inter alia*, “analyzing performance data of execution queries using *characteristics relating to each proposed summary table* and performance data of execution queries using *different subsets of characteristics found in each proposed summary table*.” In the Office Action, it is alleged that using all of the characteristics is a subset. However, claim 1 recites using

different subsets. While it may be possible for a subset to include each element of a parent set, it is impossible for *different* subsets to each include every element of the parent set (i.e., the subsets would not be different if they both contained the full set).

The Office Action also refers to column 7, lines 24-29, which describes inexact match summary tables. However, upon a careful reading of the cited passage regarding inexact match summary tables, and more particularly column 11, lines 6-12, it is evident that the term “inexact match summary tables” refers to a situation in which additional dimensions (i.e., characteristics) are added for analysis. Thus, inexact match summary tables are not subsets – but rather are supersets – of other summary tables. Inexact match summary tables therefore do not contain subsets of characteristics. Accordingly, nowhere does any of the prior art teach or suggest using both the summary table characteristics and different subsets of characteristics to create a performance measure.

Accordingly, for these reasons, Applicant submits that all claims are allowable over the art of record. The remaining dependent claims not specifically discussed herein are believed allowable for the reasons stated above, as well as for their own additional features.

Applicant respectfully submits that the application is in condition for allowance. If the Examiner believes that anything further is necessary to place the application in condition for allowance, the Examiner is requested to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Hoffman", written over a horizontal line.

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